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# United States Senate

COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP  
WASHINGTON, DC 20510-6350

July 27, 2005

The Honorable Hector V. Barreto  
Administrator  
Small Business Administration  
409 Third Street, S.W.  
Washington, DC 20416

Dear Administrator Barreto:

I am writing regarding the May 20, 2005, Audit Report from the Small Business Administration (SBA) Inspector General (IG), which analyzed the contract-bundling process to determine whether the SBA was properly reviewing bundled contracts.

I am very disappointed to learn that, according to the report, the SBA has not been reviewing the majority of bundled procurements reported by agencies. According to the report, "approximately 87 percent of the reported potential bundlings, with a value of at least \$384 million, identified during the survey were not reviewed by SBA." This report shows significant deficiencies in SBA's oversight of bundled contracts identified by other agencies and non-compliance with the agency's own bundling regulations.

One of the major shortfalls discussed in the report is the lack of resources, particularly the number of Procurement Center Representatives (PCRs) available to monitor the over 2,000 procurement locations for the Federal government. The PCRs are crucial to assisting small businesses with the Federal procurement process, but there are currently only 43 PCRs for the entire nation. They are able to cover only 11.6 percent of procurement centers and just 60 percent of government contracting dollars. This leaves nearly \$90 billion in contracts that are not reviewed by PCRs. As the IG report made clear, the resources currently allocated for PCRs are insufficient, leaving the vast majority of the contracts reported to the SBA ignored.

Of the procurement centers that did have PCRs assigned, the audit found some officials at those agencies unaware that they were assigned PCRs to report bundled contracts. This is a clear sign that the SBA has been negligent in its responsibility to educate agency procurement officials of the anti-bundling requirements included in the Small Business Reauthorization Act of 2000 and the President's October 2002 Executive Order on Contract Bundling.

The report also finds that, between FY 2001 and FY 2004, "the Office of Government Contracting was not in compliance with various requirements concerning contract bundling" including: the requirement for a bundling database; the requirement of a best

practices guide for agencies; and the requirement for a formal operating plan for its PCRs. As a result, the reports SBA were required to provide to Congress may be "understated, unrealistic or skewed."

Even more disturbing is the statement from SBA officials that "bundling issues have not been a priority since there has been an insignificant number reported." The statement that bundling has not been a priority is alarming given the testimony received by the Senate Committee at a June 19, 2002, Roundtable titled "Are Government Purchasing Policies Failing Small Business," the March 18, 2003, hearing titled "Small Business Continue to Lose Federal Jobs by the Bundle" and the April 9, 2003, Roundtable on "SBA Reauthorization: Non-Credit Programs" that reported the devastating effect bundling is having on small firms.

While this report is distressing, it is yet another example of the continuous shortfalls in the oversight duties charged to the SBA.

On March 24, 2004, the SBA announced that 25.37 percent of Federal contracts had gone to small businesses, well above the 23 percent government-wide goal. In fact, you were quoted as saying, "*These record-breaking numbers did not happen by accident. President Bush and the SBA have worked hard to help small entrepreneurs do business with the Federal government.*" Only weeks later, the SBA reduced the 25.37 percent estimate, citing inaccurate reporting from agencies and problems with the Federal Procurement Data System (FPDS).

On December 28, 2004, the Office of Advocacy at the SBA released an independent report citing that 44 companies listed in the Federal Procurement Data Center database as small were found to be "other than small." The study further estimated that over \$2 billion of Federal contracts reported as being awarded to small firms were actually given to these 44 firms, 39 of which were found to be large. This raises significant doubt about the reliability of procedures used by the SBA and its ability to effectively monitor the Federal government's small business goals.

At the February 17, 2005, hearing on the President's FY2006 Budget Request for the SBA, you testified before the Senate Committee that over \$65 billion in Federal contracts were awarded to small firms. I asked you, given the recent findings that the FY 2002 small business utilization numbers reported by the SBA are overstated and the problem that caused that miscounting still existed until December 2004, whether you could assert that the FY 2003 numbers were accurate. At that time, you were unable to give a clear response. An investigation of the FY 2003 utilization number would have provided an answer to that question. Unfortunately, your office had already declined my earlier request for an audit of the goal achievement.

Also at the February 2005 hearing, concerns were raised that the plan to hire only six new PCR's was wholly inadequate to meet the needs of the SBA to review the billions of dollars in federal contracts that are awarded each year. At that hearing, you continued to espouse the Administration's position, as you have each year during these hearings, that the SBA was doing "more with less." You even pointed out that since becoming Administrator in 2001, "the Agency's annual appropriations has continued to decrease, yet the SBA programs have reached more and more American entrepreneurs year after year." However, as reports continue to come out regarding the shortfalls in SBA oversight of Federal procurement dollars, it is clear that you are doing less with less.

It is the SBA's duty to create an atmosphere in the Federal procurement arena that fosters small business growth and development through opportunities and competition. Without leadership from the SBA, it is nearly impossible to ensure that small firms are afforded the maximum practicable opportunity, as required by law. However, we continue to find significant and pernicious shortfalls in the application of the oversight duties that are in place to ensure fair access for small firms. The continued lack of effective oversight of Federal contracting by the SBA is an abrogation of the Agency's duty to effectively advocate on behalf of small businesses attempting to do business with the Federal government.

As the Ranking Member of the Senate Committee on Small Business and Entrepreneurship, pursuant to section 10 of the Small Business Act, 15 U.S.C. 639, I request the following information be submitted to the Senate Committee on Small Business and Entrepreneurship by Wednesday, August 17, 2005:

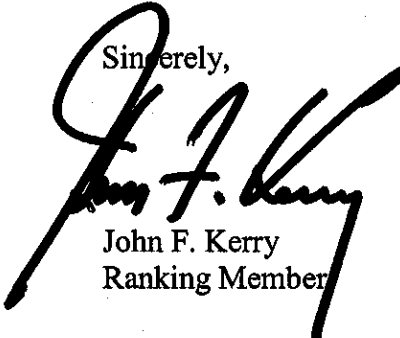
- 1) What specific actions has the SBA taken to implement the recommendations made by the Inspector General in the May 2005 Audit of Contract Bundling Process?
- 2) Why has the SBA not complied with the President's Executive Order on Contract Bundling, issued in October 2002, which recommended the development and distribution of a "best practices" model for contract-bundling review? According to the comments offered by the Associate Deputy Administrator (ADA) for Government Contracting and Business Development, the guidance is being "finalized." Why has this process taken three years? When will the review be made public?
- 3) 13 CFR § 125.2 (b)(1) states that "PCR's are responsible for reviewing all acquisitions not set-aside for small businesses to determine whether a set-aside is appropriate and to identify alternative strategies to maximize the participation of small businesses in the procurement." The testimony before the committee and the May IG report make clear that the SBA's current strategy of downsizing the number of PCR's and replacing them with e-PCR's is not working. When will the SBA correct this failed strategy and hire a sufficient number of PCR's to comply with Federal regulations?

4) The ADA for Government Contracting and Business Development commented in the report that: "SBA is not appraised of proposed contract bundlings through agency referrals alone. The Contract Bundling Hotline provides notification...and if the bundling is real, a small business should come forward to notify SBA or initiate legal action." How many calls has SBA received through the Contract Bundling Hotline? Of those calls, how many were investigated by SBA? Since the passage of the SBA Reauthorization of 2000, how many bundled contracts have been reported to the SBA by small businesses? How many of these requested legal action? How many of the cases reported to the SBA by small businesses (and not by agency referral) were investigated?

The Senate Committee on Small Business and Entrepreneurship has received numerous reports and the Office of Management and Budget has shown a link between increases in contract bundling and a decline in small business contracting. The President's Executive Order on Contract Bundling found, "the fallout from the implementation of contract bundling is: 1) reduction of the number of firms available to meet the Government's requirements; and 2) reduced competition." These are the specific protections the SBA is charged with ensuring.

I hope to continue working with you to reduce the effects contract bundling is having on small businesses and to ensure that small businesses receive their fair share of Federal contracts awarded each year. However, the SBA must provide the small business advocates, particularly PCRs, the resources they need to perform their oversight duties. I look forward to your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Kerry". The signature is stylized with a large initial "J" and a long, sweeping underline that extends to the right.

John F. Kerry  
Ranking Member